

ATTACHMENT - REMARKS

This application now includes claims 5-13, wherein the original independent claim 4 has been canceled and replaced by a new independent claim 10, and the remaining dependent claims 5-9 and 11-13 depend from claim 10.

The rejection of claims 4-9 under § 112 has been noted and is respectfully traversed. The original specification and claims clearly and unequivocally support the presence of the lubricant on either the inner surface of the outer casing tube or the outer surface of the inner carrier tube or both. As one example of this support, see page 5 of the specification, lines 19-29. The words "and/or" unequivocally convey the meaning that the non-adhesive lubricating film can be on either or both surfaces. See also page 8, lines 21-27, and original claim 4, lines 6-11 thereof. Therefore, claim 4 (as well as new claim 10 herein) clearly complies with the written description requirement as finding full support in the specification and with the requirement to particularly point out and distinctly claim the subject matter which applicant regards as the invention since it was clear in claim 4 and is even more clear in claim 10 precisely where the non-adhesive and lubricating coating is located, namely in claim 10 on at least one surface, and in the dependent claims more specifically on one, the other or both surfaces, all of which is supported by the specification.

With respect to the prior art rejections as set forth in the Final Rejection of September 16, 2010, whatever relevance Fujimoto and Blin may have had to claim 4, they are clearly insufficient to support a rejection based on anticipation under § 102 or obviousness under § 103 of new claim 10.

Claim 10 clearly recites an inner carrier tube which conveys the liquid, an outer casing tube and a heat-insulating material essentially filling the space therebetween and the claim recites that the or each film is located on a surface of the respective casing tube or carrier tube and in contact with the heat-insulating material. This structure is neither shown nor suggested by either of the applied references (or for that matter any other reference of which applicant is aware).

Fujimoto does not disclose or describe a pipe for conveying hot and cold fluids and the material between its inner and outer pipes, concrete 14, is not a heat-insulating material and is not provided for that purpose. Rather, Fujimoto describes a gas pipe which conveys gas under high pressure and a concrete filling material is provided between the inner and outer pipes to strengthen the double walled pipe. In order to utilize a so-called jacking method for burying the pipe. Thus, for this reason alone Fujimoto does not have all of the elements of claim 10 and thus cannot serve as a basis for an anticipation rejection under § 102.

Moreover, given the significantly different purpose and significantly different structure of the present invention, there is no justifiable basis for modifying Fujimoto so as to serve as a basis for rejecting claim 10 as being obvious in view of Fujimoto.

The embodiment of Figures 1-3 of Fujimoto describes at column 13, line 55-60 the presence of a polypropylene tube 7 and a lubricant between the inner wall of the outer pipe 3 and the outer wall of the polypropylene tube 7. Consequently, this lubricating material is not in contact with both the filling material 4 (which, as noted above, is not a heat-insulating material) and the outer tube 9. Thus, Fujimoto differs from the present invention and there is no suggestion whatsoever for modifying this

embodiment to reverse the location of the polypropylene tube 7 and the lubricant since this would essentially disassemble this embodiment of Fujimoto and rearrange it for no stated purpose whatsoever.

In the embodiment of Figures 5-7, as best shown in Figure 6 of Fujimoto, in addition to having a filler material 14 which is not heat-insulating, provides a tube 17 and a foam layer 18 between concrete material 14 and the outer tube 13. Lubricant is said to be provided between the concrete material and the tube 17, between the tube 17 and the foam 18 and between the foam 18 and the outer tube 13. However, this totally fails to show the claimed arrangement of a lubricating material between the heat-insulating material which fills the tube and the outer tube, wherein the lubricating material contacts both. See column 15, line 60 to column 16, line 20.

In column 3 of Fujimoto, in the broad description of the invention, the patentee describes general terms that a lubricating layer and a cushioning material may be provided between the outer wall of the filling material 14 and the inner wall of the outer pipe. However, this must be considered as a reference to the specific embodiments of Fujimoto, and which are described above. This patent does not describe or teach the specific structure of lubricating material between and contacting both of the outer wall and any filling material, much less a heat-insulating filling material.

This broad description in Fujimoto also recites generally the concept of providing the lubricating layer between the inner wall of the filling material and the outer wall of the inner pipe. However, once again this must just be a reference that the specific embodiments disclosed subsequently in the patent can be provided on the inner tube rather than the outer tube.

However, there is no specific teaching that locating the lubricant on the inner wall would be any different than the specific embodiments shown in the patent for providing lubricant with respect to the outer wall, namely with intermediate layers which preclude direct contact of the lubricating material with both the filling material and the outer surface of the inner tube.

KSR Int'l v. Teleflex, Inc., 550 U.S. 398 (2007), which governs rejections under § 103, requires that there be a reason for modifying a reference. Fujimoto provides no reason whatsoever to effect any modifications of this reference to arrive at the structure recited in claim 10. There is certainly no predictability of such a modification.

For the above reasons, there is no legal basis for modifying Fujimoto so as to reject claim 10 under § 103. Nor are there any secondary references sufficiently relevant to be combined with Fujimoto or to provide any suggestion, motivation, teaching or predictability of modifying Fujimoto to arrive at the invention of claim 10.

The Blin reference is very remote from the invention of claim 10. It does not support an anticipation rejection under § 102 and there is no basis for modifying Blin to reject claim 10 under § 103.

The rejection of claim 4 as anticipated by Blin refers to the tube C as the inner carrier tube and the element 21 as the outer casing tube. The lubricant is considered to be a material added to surface 25. The Examiner then refers to heat-insulating material as being 19. This material 19 does not fill the space between the outer tube 21 and the inner tube C, and in fact there are numerous different elements therebetween, all of which do not possibly satisfy the recitation in claim 10 of a heat-insulating material

substantially filling the space between the inner carrier tube and the outer casing tube.

Thus, there is clearly no basis for rejecting claim 10 as being anticipated under § 102.

In addition, there is no basis whatsoever, i.e., there is no teaching, suggestion, motivation or predictability for modifying Blin, especially considering the rather substantial modifications that would be required, to even remotely approach the present invention as set forth in claim 10.

Considering *KSR*, for reasons discussed above, there is clearly no basis for modifying Blin to support an obviousness rejection of claim 10 based on § 103.

In view of the above, it is respectfully submitted that this application is now in condition for allowance, which action is promptly and respectfully solicited.

Respectfully submitted,

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